

ORDINANCE NO. 20060928-110

AN ORDINANCE AMENDING THE CITY CODE TO ADD CHAPTER 10-7 RELATING TO POOLS AND SPAS AND CREATING OFFENSES; AND REPEALING CHAPTER 25-12, ARTICLE 3 OF THE CITY RELATING TO SWIMMING POOLS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The City Code is amended to add Chapter 10-7 to read:

CHAPTER 10-7. POOLS AND SPAS.

ARTICLE 1. GENERAL PROVISIONS.

§ 10-7-1 APPLICABILITY.

This chapter applies in the zoning jurisdiction.

§ 10-7-2 DEFINITIONS.

(A) In this chapter:

- (1) PRIVATE FACILITY means a pool or spa that serves not more than two dwellings.
- (2) PUBLIC FACILITY means a pool or spa that is governed by the state pool and spa regulations.
- (3) STATE POOL AND SPA REGULATIONS means the regulations adopted by the state of Texas to regulate public pools and spas, and includes the following, as amended from time to time:
 - (a) Health and Safety Code Section 341.064 (*Swimming Pools And Bathhouses*), Section 341.081 (*Authority Of Home-Rule Municipalities*), Section 341.082 (*Appointment Of Environmental Health Officer In Certain Home-Rule Municipalities*), Section 341.091 (*Criminal Penalty*), and Section 341.092 (*Civil Enforcement*);
 - (b) Health and Safety Code Chapter 757 (*Pool Yard Enclosures*); and
 - (c) Texas Administrative Code Title 25, Part 1, Chapter 265, Subchapter L (*Standards For Public Pools And Spas*).

- (B) A term used in this chapter that is defined in the state pool and spa regulations has the meaning assigned to it by the state pool and spa regulations.

§ 10-7-3 HEALTH AUTHORITY DESIGNATION; ENFORCEMENT.

- (A) In accordance with the state pool and spa regulations, the health authority is designated as the:
- (1) environmental health officer; and
 - (2) local regulatory authority.
- (B) The health authority is authorized to enforce the state pool and spa regulations. The health authority may delegate enforcement to a City employee.

ARTICLE 2. BUILDING PERMITS.

§ 10-7-21 BUILDING PERMIT REQUIRED.

- (A) Except as provided in Subsection (B), a person may not construct or structurally alter a public facility, a private facility, or an enclosure for a public or private facility unless the building official has issued a building permit for the construction or alteration.
- (B) A building permit is not required for a prefabricated wading pool with a capacity of less than 5,000 gallons.

§ 10-7-22 PERMIT ISSUANCE.

- (A) Except as provided in Subsection (B), the building official shall issue a building permit after determining that the construction plans for a public facility, private facility, or enclosure for a private facility comply with the applicable provisions of Chapter 25-12 (*Technical Codes*).
- (B) For a public facility, the building official may not issue a building permit unless the director of the Watershed Protection and Development Review Department and the health authority have approved the construction plans in accordance with Section 25-12-56 (*Construction Plans*).

ARTICLE 3. PRIVATE FACILITIES.

§ 10-7-41 ENCLOSURE REQUIRED FOR PRIVATE FACILITY.

- (A) The operator of a private facility located outdoors shall enclose the facility in the manner prescribed by this section.
- (B) The enclosure:
 - (1) must be at least four feet in height;
 - (2) may include a fence, wall, or building;
 - (3) may not include an opening large enough to permit the passage of a four-inch diameter sphere; and
 - (4) must be constructed in accordance with the Building Criteria Manual.

ARTICLE 4. PUBLIC FACILITIES.

§ 10-7-61 COMPLIANCE WITH STATE POOL AND SPA REGULATIONS.

A public facility must be constructed, maintained, and operated in accordance with the state pool and spa regulations.

§ 10-7-62 CONSTRUCTION PLANS.

- (A) A person may not construct or structurally alter a public facility unless the director of the Watershed Protection and Development Review Department and the health authority have approved the construction plans.
- (B) A person who seeks to construct or structurally alter a public facility must submit the construction plans to the Watershed Protection and Development Review Department and the health authority for review.
- (C) The construction plans must comply with the requirements of the Building Criteria Manual and include:
 - (1) the proposed design of the public facility;
 - (2) a description of the construction materials; and
 - (3) the mechanical plans, including a description of the equipment make and model.
- (D) The director of the Watershed Protection and Development Review Department shall approve the construction plans after determining that the plans comply with Title 25 (*Land Development*).

- (E) The health authority shall approve the construction plans after determining that the construction plans comply with this chapter and the state pool and spa regulations.

§ 10-7-63 WATER QUALITY TESTS AND REPORTS.

- (A) The operator of a public facility shall test the water quality and report the results as required by state pool and spa regulations.
- (B) In addition to the requirement of Subsection (A), for a Class C or Class D public facility the operator shall test the water quality and record the results no less often than:
 - (1) each day of operation, for a public facility that is in use not more than one day a week; or
 - (2) for a public facility that is in use more than one day a week:
 - (a) once a day, two days a week, if the operator is on-site less than 32 hours a week; or
 - (b) once a day, four days a week, if the operator is on-site 32 hours or more a week.
- (C) The operator of the public facility shall:
 - (1) retain the test result records for at least one year; and
 - (2) provide the test result records to the health authority when requested by the health authority.

§ 10-7-64 INSPECTIONS.

- (A) The health authority may inspect a public facility at any reasonable time.
- (B) If access to a public facility is restricted by a locking mechanism, the operator shall provide the health authority with a key, access card, lock combination, or other the means to unlock and enter the facility.

§ 10-7-65 OPERATING PERMIT REQUIRED.

- (A) A person may not operate or exercise control over a public facility without an operating permit.
- (B) A person who seeks to operate or exercise control over a public facility must file an application for an operating permit with the health authority annually. The application must include:

- (1) the operator's name and address;
 - (2) the location of the facility; and
 - (3) other information as required by the health authority.
- (C) Except as provided in Section 10-7-66 (*Denial Or Suspension Of Operating Permit; Appeal*), the health authority shall issue an operating permit if the public facility complies with the requirements of this chapter.
- (D) A permit is not transferable.
- (E) The operator shall retain the operating permit at the public facility and permit the health authority to inspect it at any reasonable time.

§ 10-7-66 DENIAL OR SUSPENSION OF OPERATING PERMIT; APPEAL.

- (A) The health authority may deny an application for an operating permit or suspend an operating permit if:
- (1) the public facility does not comply with the requirements of this chapter;
 - (2) the health authority determines that the public facility is hazardous to pool users or the public; or
 - (3) the operator does not:
 - (a) pay the permit fee;
 - (b) provide accurate operational records to the health authority; or
 - (c) permit the health authority to inspect the public facility.
- (B) After determining that public facility does not comply with this chapter or that the operating permit should be suspended, the health authority may:
- (1) close the facility;
 - (2) notify the operator of the closure;
 - (3) place a sign at the facility indicating the closure; and
 - (4) lock the entrance to the facility.
- (C) The operator of a public facility may appeal the health authority's denial or suspension of an operating permit to the City Council.

ARTICLE 5. OFFENSES.

§ 10-7-81 OFFENSES.

- (A) A person who violates this chapter commits a Class C misdemeanor punishable by:
- (1) a fine not to exceed \$500; or
 - (2) if the person acts with criminal negligence, a fine not to exceed \$2,000.
- (B) Each day that a violation occurs is a separate offense.
- (C) Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence.

PART 2. Chapter 25-12, Article 3 (*Swimming Pools*) of the City Code is repealed.

PART 3. This ordinance takes effect on October 9, 2006.

PASSED AND APPROVED

September 28, 2006

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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk